

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:11cr103-HSO-JMR-002

JAVIER MOLINA and  
JOSE LUIS SANTOS-GARCIA

**MOTION FOR IN CAMERA REVIEW OF REDACTED PROFFER**

COMES NOW the Defendant, JOSE LUIS SANTOS-GARCIA, by and through his undersigned counsel, and respectfully moves this Court to require the United States provide to the Court the un-redacted version of the proffer identified in paragraph three of Defendant's pre-sentence investigation report,<sup>1</sup> and for the Court to review *in camera* the redacted sections of that proffer to determine whether such redacted sections contain any discoverable information, and in so doing, states as follows:

1. On April 27, 2012, the Assistant United States Attorney and agents from DHS/ICE conducted the subject proffer. During the proffer, statements against Santos-Garcia were made, and such statements directly and adversely affect him at sentencing.

2. Further, the statements made during the proffer are inconsistent with prior statements made by the proffering individual and, thus, should have been previously disclosed to Defendant as *Giglio*. *Giglio v. United States*, 405 U.S. 150 (1972).

3. Although the prior statements were submitted Defendant as part of discovery, neither the Report of Investigation of the proffer nor the inconsistent proffered statements themselves

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<sup>1</sup> Counsel for Defendant is fully aware that proffers are generally protected from public disclosure. Thus, in an abundance of caution, counsel refrains from specifically identifying the proffered individual, instead referencing the pre-sentence investigation report, which the court customarily seals during sentencing.

were timely disclosed to Defendant's counsel.

4. Specifically, not until Defendant received the pre-sentence investigation report did Defendant learn of the inconsistent statements, allegations that directly and adversely affect him at sentencing.

5. Upon learning of the inconsistent statements, Defendant's counsel requested the Government immediately provide a copy of the proffer, which it did, although incomplete and substantially redacted.

6. Due to the Government's withholding of this crucial evidence against Defendant, no less the defendant's shock and surprise at the proffered information's inconsistency with prior statements made by the proffering individual, Defendant questions what additional *Giglio*, *Brady* or otherwise discoverable information may be contained within the redacted and omitted pages of the proffer.

7. Thus, Defendant Santos-Garcia specifically moves this Court to require the United States immediately provide to the Court the complete, un-redacted version of the proffer identified in paragraph three of Defendant's pre-sentence investigation report, and for the Court to review *in camera* the omitted and redacted sections of that proffer (as compared to the redacted version received by Defendant) to determine whether such omitted or redacted sections contain any discoverable information.

Respectfully submitted this the 17th day of July, 2012.

ALYSSA DONOVAN FARRELL  
Attorney for Defendant Santos-Garcia

By: /s/Alyssa Donovan Farrell

ALYSSA DONOVAN FARRELL  
MSB#102614  
134 Rue Magnolia  
Biloxi, MS 39530  
Phone: (228) 374-8004  
Fax: (228) 435-8008  
Email: Alyssa.d.farrell@gmail.com  
Attorney for Defendant Santos-Garcia

#### CERTIFICATE OF SERVICE

I, Alyssa Donovan Farrell, do hereby certify that I have this day electronically filed the foregoing Motion with the Clerk of the Court using the ECF system which will send notification of such filing to all interested parties.

By: /s/Alyssa Donovan Farrell  
ALYSSA DONOVAN FARRELL  
*Attorney for Defendant*